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October 18, 2019

VIA E-MAIL
VIA U.S. MAIL

Katherine Collier, Esq.
Executive Secretary
Mississippi Public Service Commission
501 North West Street, Suite 201A
Jackson, MS 39201

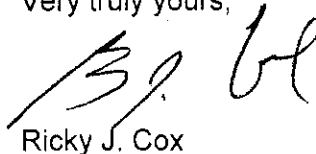
Re: Petition of Mississippi Power Company for a Certificate of Public Convenience and Necessity for Environmental Compliance Activities Authorizing the Closure of the Ash Pond, Construction of Low Volume Wastewater Treatment Facilities, and Conversion of Bottom Ash Collection Facilities for the Plant Victor J. Daniel Electric Generating Facility in Jackson County, Mississippi
Docket No. 2019-UA-116

Dear Katherine:

On behalf of Mississippi Power Company in the above-referenced docket, I have enclosed the original and twelve (12) copies of the Company's Motion to Strike Testimony of Rachel Wilson Submitted on Behalf of Sierra Club. The Company intends to submit a proposed order under separate cover. Also enclosed is a copy of this letter and the first page of the filing, which I will appreciate your file-stamping and returning to me. Please let me know if you have any questions regarding this matter.

Thank you for your assistance in this matter.

Very truly yours,



Ricky J. Cox

BHS:hr

Attachments

cc: Mr. Virden Jones
David Tad Campbell, Esq.
Jeff Stone, Esq.
Shawn Shurden, Esq.
Parties of Record

BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

MISSISSIPPI POWER COMPANY
EC-120-00097-00

DOCKET NO. 2019-UA-116

IN RE: PETITION OF MISSISSIPPI POWER COMPANY FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY FOR ENVIRONMENTAL COMPLIANCE
ACTIVITIES AUTHORIZING THE CLOSURE OF THE ASH
POND, CONSTRUCTION OF LOW VOLUME
WASTEWATER TREATMENT FACILITIES, AND
CONVERSION OF BOTTOM ASH COLLECTION
FACILITIES FOR THE PLANT VICTOR J. DANIEL
ELECTRIC GENERATING FACILITY IN JACKSON
COUNTY, MISSISSIPPI

MISSISSIPPI POWER COMPANY'S MOTION TO STRIKE TESTIMONY OF
RACHEL WILSON SUBMITTED ON BEHALF OF SIERRA CLUB

COMES NOW Mississippi Power Company ("MPC" or the "Company") and,
pursuant to the Mississippi Public Service Commission's ("Commission") Public
Utilities Rules of Practice and Procedure ("Rules"), files this its Motion to Strike the
Testimony of Rachel Wilson submitted on behalf of Sierra Club and would show unto
this Commission the following:

Sierra Club's submission of direct testimony a week before the scheduled
hearing in this docket demonstrates its lack of regard for the Commission's
procedures and the timeframe for resolution of this matter established by the
Commission through its Scheduling Order. Moreover, it prejudices MPC at the
hearing of this matter, and violates basic principles of fundamental fairness.
Therefore, MPC respectfully requests that the testimony of Rachel Wilson be stricken

and that she should not be allowed to appear or testify in this matter for any purpose whatsoever.

Sierra Club's late-filed testimony violates the clear and unambiguous terms of the Scheduling Order which provides for only three (3) things: 1) the submission of a Proposed Order by MPC, which the Company did on September 23rd; 2) the submission of Comments on the Proposed Order, which Sierra Club did on September 30th and which included an unverified report by Synapse; and 3) the consideration of this docket at a special meeting in October, which the Commission properly noticed for October 24th.

The Scheduling Order did not provide for the submission of additional testimony by any party after its issuance. Sierra Club's testimony does not comply with the Scheduling Order; therefore, it should be stricken from the record.

MPC would be severely prejudiced at this juncture of the proceeding if such testimony were allowed without the benefit of any discovery by MPC. By violating the Scheduling Order, Sierra Club has created, in essence, a Hobson's choice for MPC, where both options are equally objectionable. The Company can either proceed to the scheduled hearing without the benefit of any discovery and at great prejudice, in hopes of preserving its critical path to compliance, or request a delay in order to properly prepare for and adequately rebut the allegations of Synapse and Ms. Wilson, thereby jeopardizing the likelihood of a timely ruling and resulting in non-compliance for Plant Daniel as of November 1, 2020. Either way, Sierra Club wins, which means that MPC is really left with no choice at all.

Sierra Club's strategy is fundamentally unfair and should not be rewarded by allowing Ms. Wilson's testimony into the record. MPC respectfully requests that her testimony be stricken for good cause shown.

Sierra Club cannot be prejudiced by granting MPC's Motion herein. Sierra Club has had more than ample time in this proceeding and prior to the issuance of the Scheduling Order to participate fully in the process established under the law and the rules, yet they failed to do so until now. MPC's petition and the direct testimony of Mark P. Loughman in support of that petition have been on file with the Commission since July 9, 2019. Sierra Club has been a full party to this proceeding since August 12, 2019. Sierra Club had time to prepare and file testimony and to conduct whatever discovery it wanted to conduct weeks ago. Its submission of testimony just a week before the scheduled hearing and in violation of the Scheduling Order does not afford MPC the same due process. Sierra Club wants to delay this hearing and defer a decision on the CCR Projects, because they know that it likely results in the de facto retirement of Units 1 and 2 at Plant Daniel. The submission of Ms. Wilson's testimony this week is their last-ditch attempt to delay this proceeding.


Because Sierra Club's offer of testimony violates the clear language of the Scheduling Order, prejudices MPC at the hearing of this matter, and violates basic principles of fundamental fairness, MPC respectfully requests that the Commission strike the testimony of Ms. Rachel Wilson and exclude her from participation in the October 24th hearing of this matter for any purpose whatsoever.

In addition, given the impending hearing on MPC's petition, the Company further respectfully requests that the Commission rule on this Motion as soon as possible such that if this Motion is not granted as requested, MPC may be in a position to submit rebuttal testimony prior to the hearing, which right the Company specifically reserves as part of this Motion.

RESPECTFULLY SUBMITTED, this the 18th day of October, 2019.

MISSISSIPPI POWER COMPANY

BY: BALCH AND BINGHAM LLP

BY: 
RICKY J. COX

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CERTIFICATE OF SERVICE

I, RICKY J. COX, counsel for Mississippi Power Company, do hereby certify that in compliance with RP 6 of the Mississippi Public Service Commission's Public Utilities Rules of Practice and Procedure (the "Rules"):

(1) An original and twelve (12) copies of the Motion have been filed with the Commission by U.S. Mail to:

Katherine Collier, Esq.
Executive Secretary
Mississippi Public Service Commission
501 North West Street, Suite 201A
Jackson, MS 39201

(2) An electronic copy of the Motion has been filed with the Commission via e-mail to the following address:

efile.psc@psc.state.ms.us

(3) A copy of the Motion was served by hand delivery or United States Mail, first class postage prepaid, to:

Frank Farmer, Esq.
Mississippi Public Service Commission
502 North West Street, Suite 201A
Jackson, MS 39201

Stephen Jackson, Esq.
Cooperative Energy
P. O. Box 15849
Hattiesburg, MS 39404-5849

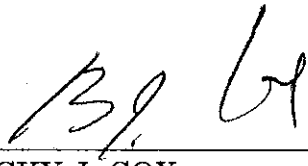
Mr. Virden Jones
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Ocean Springs, MS 39564

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(4) MPC has complied with all other requirements of the Commission's Rules.

This the 18th day of October, 2019.



RICKY J. COX